

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NEILL WILLIAM FREELAND,

Defendant-Appellant.

UNPUBLISHED

December 1, 1998

No. 203726

Jackson Circuit Court

LC No. 97-078727 FH

Before: White, P.J., and Markman and Young, Jr., JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of unlawfully driving away a motor vehicle (UDAA), MCL 750.413; MSA 28.645. Defendant was sentenced as an habitual offender, second offense, MCL 769.10; MSA 28.1082, to two to five years in prison. Defendant appeals as of right. We affirm.

The sole issue presented on appeal is whether defendant was denied a fair and impartial trial when, on cross-examination and in violation of the trial court's pretrial order, the prosecutor impeached defendant with a prior conviction for larceny in a building. Defendant failed to object to the prosecutor's conduct or request a mistrial. Accordingly, appellate review is precluded unless a curative instruction could not have eliminated the prejudicial effect or failure to consider the issue would result in a miscarriage of justice. *People v Howard*, 226 Mich App 528, 544; 575 NW2d 16 (1997). Had defendant either immediately objected to the prosecutor's conduct or brought it up at a later time outside the jury's presence, the trial court could have given an appropriate instruction. This would have been sufficient to cure any potential prejudice. Instead, defendant simply acquiesced to the introduction of his prior conviction. No miscarriage of justice would result from our failure to further review this issue. We do, however, publicly admonish the prosecution for its blatant disregard of the trial court's pretrial ruling.

Affirmed.

/s/ Helene N. White
/s/ Stephen J. Markman
/s/ Robert P. Young, Jr.